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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.														
10/665,256	09/20/2003	Shree K. Kurup	KURUP-3	6918														
7590 ROBERT NATHANS 36 STAG DRIVE BILLERICA, MA 01821		12/17/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">LEGESSE, NINI F</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3711</td><td></td></tr><tr><td colspan="2"><table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>12/17/2007</td><td>PAPER</td></tr></table></td></tr></table>		EXAMINER		LEGESSE, NINI F		ART UNIT	PAPER NUMBER	3711		<table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>12/17/2007</td><td>PAPER</td></tr></table>		MAIL DATE	DELIVERY MODE	12/17/2007	PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,256

Applicant(s)

KURUP, SHREE K.

Examiner

Nini F. Legesse

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-49, 54 and 55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-49, 54 and 55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Applicant's Request for Continued Examination is acknowledged on 07/30/07.

Applicant's new claims and argument is acknowledged on 11/08/07.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41, 42, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable Craig (US Patent No. 4,122,847) in view of over Mack (US Patent No. 5,764,338).

Craig discloses a frameless eye device (since Applicant appears not to consider the support segment (5) of the instant application as a frame, Examiner has considered the mask element (12) of the Craig device as being frameless. See Figs. 1-5). Craig fails to disclose a message element on the eye. However Mack discloses an eye device that includes a message (see Fig. 7 and see column 4 line 52). The reference also discloses that the type of eyeglasses is immaterial to the invention and that a variety of forms and styles of eyeglasses with different type of frames and lens is well known (see column 4 lines 30-43). Thus, it would have been obvious to one of ordinary skill in the art to modify the Craig eye device to include a message or a name as taught by Mack so that the

eye device could have multiple use of being used as a protective eye shield and also to be provided to the user as a souvenir after it is used in surgery. During normal use and operation of the Craig device as modified by Mack, the method as claimed by Applicant would obviously be performed.

Claims 41-49, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable Chunga (US Patent No. 3,758,202) in view of over Mack (US Patent No. 5,764,338).

Regarding claims 41, 42, and 45, Chunga discloses a frameless eye device (since Applicant appears not to consider the support segment (5) of the instant application as a frame, Examiner has considered element (15) of the Chunga device as being frameless. See Figs. 1-4). Chunga fails to disclose a message element on the eye. However Mack discloses an eye device that includes a message (see Fig. 7 and see column 4 line 52). The reference also discloses that the type of eyeglasses is immaterial to the invention and that a variety of forms and styles of eyeglasses with different type of frames and lens is well known (see column 4 lines 30-43). Thus, it would have been obvious to one of ordinary skill in the art to modify the Chunga eye device to include a message or a name as taught by Mack in order to attract attention as stated in column 1 lines 39-40 of the Mack reference. During normal use and operation of the Chunga in view of Mack device, the method as claimed by Applicant would obviously be performed.

Regarding claims 43, 44, 46-49, 54, and 55, even though the reference do not disclose the use of an old discarded lens, it would have been obvious to one of ordinary skill in the art to use such types of lens in order to reduce the manufacturing cost of the eye device.

Response to Arguments

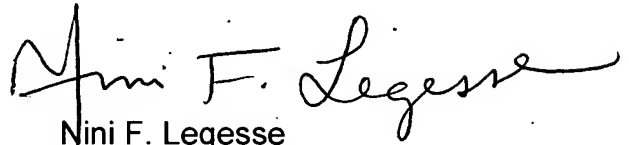
Applicant's arguments with respect to claims 41-49, 54, and 55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Nini F. Legesse
Primary Examiner
Art Unit 3711

12/12/07